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7 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 NAUTILUS, INC.,)

10 Plaintiff,)

11 v.)

12 ICON HEALTH & FITNESS, INC.,)

13 Defendant.)

No. 3:16-cv-05393

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

14
15 1. In around 2001, two Seattleites invented a new kind of exercise machine—a
16 variable stride device. Variable stride lets people exercise more in the way their individual
17 bodies want to move, more akin to their own natural strides. The inventors were John Arthur
18 Ohrt and James A. Duncan, both of whom joined Nautilus, Inc. (“Nautilus”) after it acquired
19 their invention from their former employer, StairMaster.

20 2. The defendant, Icon Health & Fitness, Inc. (“Icon”), is using Nautilus’ patented
21 variable stride technology.

22 3. For example, Icon promotes the feature for its FreeStride Trainer machines as
23 “auto adjustable stride,” e.g., on its nordictrack.com website. The infringing “FS7i” model is
24 shown in Figures 1-2, below:

FreeStride Trainer FS7i

(NTEL71313) In Stock

All the Benefits
Of Three Machines in One

65 review(s) / Write / Read

WEB PRICE

~~\$2,999.00~~

SALE PRICE

\$1,999.00

ADD TO CART >



No interest if paid in full in 18 months on orders over \$1000.
Subject to credit approval. [See terms.](#)



(Fig. 1 - Infringing “FS7i” machine)



THREE MACHINES IN ONE

Combining the benefits of a stepper, a treadmill and an elliptical into a single machine, the FreeStride Trainer is ergonomically designed to adapt to the way you move. The floating stride mechanism offers training that ranges from short up-and-down steps to long, 38-inch strides. And changing workouts is as simple as changing your stride.

(Fig. 2 – Description of Infringing “FS7i” machine)

1 **NATURE OF THE ACTION**

2 4. This is an action for patent infringement under 35 U.S.C. § 100 et seq.

3 **PARTIES**

4 5. Nautilus is a Washington corporation headquartered in Vancouver,
5 Washington. Since 1986, it has provided a steady stream of innovative consumer fitness
6 products.

7 6. On information and belief, Icon is a privately held corporation, with a place
8 of business in Logan, Utah.

9 **JURISDICTION AND VENUE**

10 7. This Court has jurisdiction over the subject matter of this action pursuant to
11 28 U.S.C. § 1338(a).

12 8. This Court has personal jurisdiction over Icon based on Icon's activities
13 directed at Washington, including this District, involving inter alia the offer for sale and
14 sale of infringing devices such as the FreeStride Trainer variable stride exercise machines.

15 9. Icon has at least offered to sell infringing FreeStride Trainers to potential
16 buyers in Washington and in this District.

17 10. Icon has offered to sell FreeStride Trainer machines with the "auto-
18 adjustable stride" feature under the NordicTrack brand.

19 11. Icon is the registrant for the nordictrack.com website, and on information
20 and belief operates and controls that website.

21 12. FreeStride Trainer machines are offered for sale to residents of this District
22 and are available for purchase by residents of this District via an interactive e-commerce
23 website nordictrack.com, e.g., at the webpage
24

1 <https://www.nordictrack.com/fitness/en/NordicTrack/freestride-trainers/freestride-trainer->
2 [fs7i](https://www.nordictrack.com/fitness/en/NordicTrack/freestride-trainers/freestride-trainer-).

3 13. FreeStride Trainers at issue have been reviewed online by users who
4 purport to reside in the Western District of Washington, including in Lake Stevens, *see*
5 <https://www.nordictrack.com/fitness/en/NordicTrack/freestride-trainers/freestride-trainer->
6 [fs9i](https://www.nordictrack.com/fitness/en/NordicTrack/freestride-trainers/freestride-trainer-) (visited May 10, 2016) (customer review by “dhood (Lake Stevens, Wa) on (2015-04-
7 09)”) and in Olympia, *see* <https://www.nordictrack.com/fitness/en/NordicTrack/freestride->
8 [trainers/freestride-trainer-fs7i](https://www.nordictrack.com/fitness/en/NordicTrack/freestride-) (visited May 10, 2016) (customer review by
9 “HappyExercise (Olympia, WA) on (2016-01-02)”).

10 14. On information and belief, Icon has sold infringing FreeStride Trainers at
11 issue to residents of Washington and the Western District of Washington, and those
12 purchasers have used infringing FreeStride Trainers at issue within Washington and the
13 Western District of Washington.

14 15. Venue is proper in this District pursuant to 28 U.S.C. § 1400(b).

15 **THE INFRINGED VARIABLE STRIDE PATENTS**

16 16. U.S. Patent No. 6,689,019 (“the ’019 patent”) issued February 10, 2004,
17 and is attached as Exhibit 1.

18 17. U.S. Patent No. 7,341,542 (“the ’542 patent”) issued March 11, 2008, and
19 is attached as Exhibit 2.

20 18. U.S. Patent No. 7,632,219 (“the ’219 patent”) issued December 15, 2009,
21 and is attached as Exhibit 3.

22 19. U.S. Patent No. 8,323,155 (“the ’155 patent”) issued December 4, 2012,
23 and is attached as Exhibit 4.

1 20. Nautilus owns all right, title, and interest in the '019 patent, the '542 patent,
2 the '219 patent and the '155 patent (collectively “the asserted patents”), and has owned
3 each of the asserted patents since it issued.

4 21. No condition precedent, in 35 U.S.C. § 287 or otherwise, bars or limits the
5 damages recoverable by Nautilus for Icon’s infringement of at least two of the asserted
6 patents.

7 22. Icon has been aware of the '019 patent since at least 2005 when it was cited
8 to the Patent Office in connection with Application No. 11/107,375 for a “Method and
9 System for Varying Stride in an Elliptical Exercise Machine,” filed on April 14, 2005, and
10 naming one or more Icon employees and product developers as alleged inventors.

11 **ICON’S INFRINGING ACTIONS**

12 23. The preceding paragraphs are incorporated by reference as if fully restated
13 here.

14 24. On information and belief, Icon first introduced its infringing FreeStride
15 Trainer FS7i exercise machine to the U.S. market in 2014.

16 25. On information and belief, Icon’s other FreeStride Trainers, including the
17 “FS5i” and “FS9i” exercise machines, are materially the same as the FS7i for purposes of
18 infringement of the asserted patents.

19 26. On information and belief, Icon launched FreeStride Trainers despite an
20 objectively high likelihood that its actions constituted infringement of Nautilus’ valid
21 patent rights, including one or more of the asserted patents, and Icon knew or should have
22 known that.

23 27. On information and belief, Icon’s infringement is and has been willful.
24

1 28. Icon's infringing variable stride exercise machines compete with offerings
2 from Nautilus, including in the market for home exercise machines.

3 **COUNT ONE – INFRINGEMENT OF U.S. PATENT 6,689,019**

4 29. The preceding paragraphs are incorporated by reference as if fully restated
5 here.

6 30. Icon's use, manufacture, offer for sale, and/or sale in the United States,
7 and/or importation into the United States, of at least the FS7i exercise device literally
8 infringes at least claim 1 of the '019 patent.

9 31. Nautilus is entitled to damages for Icon's infringement of the '019 patent.

10 **COUNT TWO – INFRINGEMENT OF U.S. PATENT 7,341,542**

11 32. The preceding paragraphs are incorporated by reference as if fully restated
12 here.

13 33. Icon's use, manufacture, offer for sale, and/or sale in the United States,
14 and/or importation into the United States, of at least the FS7i exercise device literally
15 infringes at least claim 1 of the '542 patent.

16 34. Nautilus is entitled to damages for Icon's infringement of the '542 patent.

17 **COUNT THREE – INFRINGEMENT OF U.S. PATENT 7,632,219**

18 35. The preceding paragraphs are incorporated by reference as if fully restated
19 here.

20 36. Icon's use, manufacture, offer for sale, and/or sale in the United States,
21 and/or importation into the United States, of at least the FS7i exercise device literally
22 infringes at least claim 1 of the '219 patent.

23 37. Nautilus is entitled to damages for Icon's infringement of the '219 patent.

COUNT FOUR – INFRINGEMENT OF U.S. PATENT 8,323,155

38. The preceding paragraphs are incorporated by reference as if fully restated here.

39. Icon's use, manufacture, offer for sale, and/or sale in the United States, and/or importation into the United States, of at least the FS7i exercise device infringes, literally or under the doctrine of equivalents, at least claim 1 of the '155 patent.

40. Nautilus is entitled to damages for Icon's infringement of the '155 patent.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Nautilus prays for judgment and seeks relief against Defendant Icon Health & Fitness, Inc. as follows:

- A. For a judgment in favor of Nautilus that Icon has infringed U.S. Patent No. 6,689,019;
- B. For a judgment in favor of Nautilus that Icon has infringed U.S. Patent No. 7,341,542;
- C. For a judgment in favor of Nautilus that Icon has infringed U.S. Patent No. 7,632,219;
- D. For a judgment in favor of Nautilus that Icon has infringed U.S. Patent No. 8,323,155;
- E. For a judgment in favor of Nautilus finding that Icon's infringement was willful;
- F. For a judgment in favor of Nautilus finding that this is an exceptional case;
- G. For an award of monetary relief to the fullest extent, including increased damages, prejudgment and post judgment interest, and Nautilus' costs and attorney fees;

1 H. For a permanent injunction against further infringing activity by Icon and all those
2 in active concert and who receive notice of the injunction; and

3 I. For any and all other relief that the Court deems just and proper.

4 **DEMAND FOR JURY TRIAL**

5 In accordance with Fed. R. Civ. P. 38(b), Nautilus hereby demands a jury trial on
6 all issues so triable.

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8 DATED this 23rd day of May, 2016.

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